

**ENTERED**

November 03, 2016

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION

DAVID BARLOW, §  
§  
Plaintiff, §  
VS. § CIVIL ACTION NO. 3:15-CV-205  
§  
THE KROGER CO., §  
§  
Defendant. §

**ORDER ADOPTING MAGISTRATE'S  
REPORT AND RECOMMENDATION**

Pending before the Court is the Report and Recommendation of United States Magistrate Judge John Froeschner. (Dkt. 26). On July 5, 2016, this case was referred to Judge Froeschner pursuant to 28 U.S.C. § 636. (Dkt. 20). Pending before Judge Froeschner was Defendant's Motion for Summary Judgment. (Dkt. 19).

On August 16, 2016, Judge Froeschner filed a Report and Recommendation recommending that the Defendant's Motion for Summary Judgment be denied. No objections have been filed to the Report and Recommendation. Accordingly, the Court reviews the Report and Recommendation for plain error on the face of the record. 28 U.S.C. § 636(b)(1); *see also*, FED. R. CIV. P. 72(b)(3).

Based on the pleadings, the record and the applicable law, the Court finds that there is no plain error apparent from the face of the record. Accordingly, it is hereby

**ORDERED AND ADJUDGED** that:

- (1) Judge Froeschner's Report and Recommendation is **APPROVED AND ADOPTED** in its entirety as the holding of the Court; and
- (2) The Defendant's Motion for Summary Judgment is **DENIED**.

It is so **ORDERED**.

SIGNED at Galveston, Texas, this 3<sup>rd</sup> day of November, 2016.

  
\_\_\_\_\_  
George C. Hanks Jr.  
United States District Judge